to the Sierra Nevada, shall constitute a Territory under the name of the Territory of South California, and shall be organized as such under the provisious of this bill applying to the Territory of Utah, (changing names where they ought to be changed,) in all respects whatsoever, and shall, when ready, able, and willing to become a State, and desiring to be such, be admitted into the Union, with or without slavery, as the people thereof may desire and make known through their constitution."

it may be printed.

The amendment was accordingly ordered to lie upon the table, and the motion to print was agreed to.

Mr. CLAY. Mr. President, I am very happy to perceive a disposition on the part of those opposed to the bill to present to the Senate and the country a contre projet. The honorable Senator from Louisiana has done so on this occasion, and I think, if he will allow me to say so, that he acts much more in conformity to the duty which every member owes to this body, whether he be in the minority or in the majority, to present a residerather than to present a project when the present a residerather than to present a residerather than the part of the part sent a projet rather than to present himself, and say, "We are in the minority, and we are not bound to offer any proposent a projet rather than to present himself, and say, "We are in the minority, and we are not bound to offer any proposition." I am happy to see that the Senator from Louisiana has taken a different view of what he deems to be his duty on this occasion, and has presented us with this amendment. I shall not now anticipate any discussion which may arise out of his preposition. It will be taken up in the progress of the bill, and after it has been duly considered, I dare say that every Senator will be found to express his opinion or give his vote according to his sense of duty. At present I suppose it is not intended to interrupt the progress of the bill, and the immediate amendments before us—the amendment of the Senator from Mississippi, with the other amendment of the Senator from Ohio. Mr. HALE. I do not rise to make a speech, but merely

offer an explanation which is due to my friend from Ohio who moved this amendment. In the remarks which I made the other day I suggested to the Senate that I thought it would be better to meet all these amendments openly, and not to come at them by circumfocutory amendments. I did not at all mean to imply that I was not pleased with the amendment of my friend from Ohio, (Mr. Chase.) On the contrary, I think it was eminently necessary to meet the amend-ment offered by the Senator from Mississippi. All that I wished to say was that I preferred a direct vote; and that in that vote I hoped we would have a proposition which we could understand. But, inasmuch as the Senator from Mississippi made his proposition, I think the Senator from Ohio has not only appropriately but necessarily made his, to meet the contingences implied in that of the Senator from Mississippi.

Mr. DOUGLAS. I wish to say one word before this part of the bill is voted upon. I must confess that I rather regretted that a clause had been introduced into this bill pro viding that the Territorial Governments should not legislat in respect to African slavery. The position that I have ever taken has been that this and all other questions relating to the domestic affairs and domestic policy of the Territories ought to be left to the decision of the people themselves, and that we ought to be content with whatever way they may decide the question, because they have a much deeper interest in these matters than we have, and know much better what indecide for them. I would therefore have much preferred that that portion of the bill should have remained as it was reported from the Committee on Territories, with no provision o the subject of slavery the one way or the other; and I do hope yet that that clause in the bill will be stricken out. I am satisfied, sir, that it gives no strength to the bill; I am satisfied, even if it did give strength to it, that it ought not so be there, because it is a violation of principle—a violation of that principle upon which we have all rested our defence of the course we have taken on this question. I do not see how those of us who have taken the position which we have taken, (that of non-interference) and have argued in favor of the (that of non-interference) and have argued in lavor or the right of the people to legislate for themselves on this question, can support such a provision without abandoning all the arguments which we urged in the Presidential campaign in the year 1848, and the principles set forth by the honorable Se nator from Michigan in that letter which is known as the "Nicholson letter." We are required to abandon that platform; we are required to abandon those principles, and to stultify ourselves and to adopt the opposite doctrine—and for what? In order to say that the people of the Territories shall not have such institutions as they shall deem adapted to their condition and their wants. I do not see, sir, how such a provision as that can be acceptable either to the people of the North or the South. Besides, it settles nothing; it leaves it a matter of doubt and uncertainty what is to be the condition of things under the bill; and whatever shall be ascertained to be the condition in respect to slavery, it may turn out that while the law is held to be one way, the people of the Territory are unanimous the other way.

And, sir, is an institution to be fixed upon a people in op-

position to their unanimous opinion? Or are the people by our action here to be deprived of a law which they unanimously desire, and yet have no power to remedy the evil? I, for one, think that such ought not to be the case. In my own opinion I have no doubt as to what the law would be under that provision; but if I were left to the exercise of my own judgment and to carry out my own principles, I desire no provision whatever in respect to the institu-tion of slavery in the Territories. I wish to leave the people of the Territories free to enact just such laws as they please in respect to this institution. On this one point I am not left to follow my own judgment nor my own desire. lemnly pronounced. My vote, sir, will be in accordance with their instructions; but I desire that that vote shall be given upon the direct question; to come fairly up to these instructions, and not to this indirect mode, which settles nothing, whether it is adopted or rejected.

Mr. DOWNS. I am very sorry, sir, to hear the honorable Senator from Illinois say that there is any thing in this bill, or in the amendments made to this section by the committee, that is in violation of the principle of non-intervention declared in the Nicholson letter of the honorable Senator from Michigan. I thought, sir, it was the very thing. The ground it is put upon in the report, as I contended the other day. I thought made it precisely of this construction. I find, Mr. President, that I was not alone in this construction of it; for the press throughout the country, the Democratic press especially, have universally considered the question as to the Teres precisely as one according with the views of the hon orable Senator from Michigan. But, sir, if the meaning of that letter is to be frittered away in that way-and there have been some explanations in regard to that letter-if the very foundation of that letter is to be taken away, I shall regre it deeply, because I give a different construction to it.

I regret deeply that the honorable Senator from Illinois can the amendment offered by the committee or the subject. I was surprised when the territorial bill was reported to find that this principle was not contained in it. And supposed that it was more an inadvertency than any deliberate intention to leave out what had been considered so important on this question. I hope, sir, that on further re flection the honorable Senator will not persist in opposition t this clause of the te. th section reported by the committee. If he does, he changes the whole foundation of the report of the ittee; he makes it a different thing altogether; and I submit it to him now to reflect, whatever our impressions may have been on this principle heretofore, that he conceives un der the practice which he had under it for twelve months that the people of the Territory, under any circumstances, could form a constitution and exclude emigration from the South-I ask him if it can be supposed likely that the South will calmly acquiesce in a principle which would certainly ex-clude them? I ask him if he can suppose, if we strike out this provision, when it is well known that the feeling of a large majority of the people of New Mexico is in favor of the abolition of slavery, that the South will acquiesce in such a proposition? I say, for one, sir, if the Wilmot proviso is to be preferred, if it is to be imposed, impose it here, but do not be preferred, if it is to be imposed, impose it here, but do not authorize it indirectly by introducing such sections in that bill without the amendment of the committee. I hope, then, that if there is a desire to pass this bill, there may be some general concurrence on the one side or on the other: but I will say this, that if each Senator is to oppose this bill because there is some clause in it which does not square with his impressions, we had better let it drop at once. It can never pass if such a course be pursued.

I will not longer occupy the time of the Senate in discus sing this subject; but I could not let the remarks of my friend the Senator from Illinois pass without expressing my extreme

Mr. CHASE. I should not add a word to what I have already said upon this amendment, were it not that some mis apprehension appears to prevail in certain quarters in regard to it. Several Senators, when the amendment was originally introduced, exclaimed "That is the Wilmot proviso. It is no such thing. I introduced it for the purpose, and only for the purpose, of meeting and denying the proposition declared by the Senator from Mississippi (Mr. Davis) to be

embodied in the amendment which he presented.

The bill reported by the committee contained an express prohibition of Territorial legislation in respect to African slavery. It so happens that hardly any two gentlemen who have spoken upon the subject of that prohibition have agreed as to its import; and it was for the purpose, as I supposed, of fixing its construction, or at least of suggesting, and at the same time, warranting a particular construction, that the ho-norable Senstor from Mississippi moved his amendment That amendment has been materially modified in the varioust stages of the discussion. As it now stands, it provides that the Territorial Legislature shall neither introduce nor exclude slavery, but shall have power to legislate for the protection of property of every kind which may be introduced into or held in the Territory conformable to the Territory, conformably to the constitution and

laws of the United States. Mr. President, what does this language mean? Shall we advance a single step towards a clear and unambiguous de-claration of legislative intention if we adopt this amendment? Undoubtedly, the intent would be clear enough if all agreed with the Senator from Mississippi, that the terms "property of every kind held within or brought into the Territories in conformity with the constitution and laws of the United

is covered and secured by the Senator's amendment, or the original clause, as reported by the Committee. Those Senators who think that under the original provision of the bill, or under this amendment of the Senator, slaves may be introduced into the Territory, or persons held there as property, who see nothing undesirable in that result, will of course vote against my restrictive proposition. But I do not see how any Senator can refuse to vote for it, who holds the opinion, frequently expressed here, that neither the original clause, in or the amendment of the Senator frem Mississippi, when sightly construed will prove the senator frem Mississippi, when rightly construed, will warrant slavery in the Territories, or who is unwilling to see slavery established there as the effect and result of legislation here. Such a vote will only give expression, and effect the professed wish and purpose of such a Senator. It will not be a vote for the prohibition of slavery, in the Territories. It will be a vote that slavery shall not be established there by the bill or the amendment, under a con-struction which many Senators insist upon as the true one, and which, there is some reason to fear, may be held to be the true one by the Judiciary, as now constituted.

It was for the purpose of negativing this construction, or rather, as I said at the first, of excluding the conclusion of the leading friends of the amendment, that I introduced the pending amendment to it. If that conclusion ought to be excluded, then the proposition I have submitted ought to be adopted. If that conclusion ought to be adopted to the tending from Mississipping and the construction that the Senator from Mississipping and the construction that the c

have offered to the amendment of the Senator from Missis-sippi may be clearly understood. I have nothing further

Mr. DAVIS, of Mississippi. The difference between the two amendments is briefly this. Mine proposes to give to the Territorial Legislature power to protect property of every kind which may be introduced into the Territory under the laws and constitution of the United States. The Senator from Ohio, true to his instinct, comes in with a proposition to exclude slaves, if that is property which may be introduced under the constitution and laws of the United States. Then, Mr. President, the difference is this. I stand upon the ground which I have always held, that we are to be permitted to en-joy our rights under the constitution. I do not ask Congress what is the true legal construction of the constitution. I stand upon the doctrine of non-intervention as it was originalunderstood; that doctrine which prevents Congress from terfering to take from any man those rights which he holds under the constitution, but which has been perverted to mean that this Government shall not give the protection of its shield to those rights which have a right to take shelter under it. to those rights which have a right to take shelter under it. There is a great distinction between this Government intervening to decide what is property, intervening to decide what are constitutional rights, and coming forward to give that protection which every citizen has a right to claim from every government to which he gives his support. The distinction, then, Mr. President, between the position of the Senator from Ohio (Mr. Chare) and myself is, that he calls upon Contract to intervence to inter gress to intervene against rights which we may have or may not have under the constitution, and to declare that a certain species of property held within the States is not property recognised by the constitution, and, therefore, which there is no right to transfer into the Territories. I ask that the Territorians. rial Legislature shall protect property of every kind. My opinion is, that that species of property may go into the Territories, but I do not ask Congress to decide whether my opinion is correct or not. I ask Congress only for the protection of rights wherever rights exist. The distinction is a very broad one. That which I have proposed, I have met fully and openly, and covered entirely in every modification which the amendment has undergone since it was introduced. A word now to the Senator from Illinois, (Mr. Douglas.)

It is to his argument that I address myself. The difference between that Senator and myself consists in who are a people. The Senator says that the people of a Territory have a right to decide what their institutions shall be. Why? By what authority? How many of them? Does the Senator tall me as be said once before from the authority of God? tell me, as he said once before, from the authority of God? Then one men goes into a Territory and establishes the funamental law for all time to come. It is the unanimous pointion of what that law should be and all the citizens of the United States, joint owners of that Territory, are to be excluded because one man, and with greater unanimity than might come there. That is the doctrine, carried out to its be stricken out which restrained the Territorial Legislature fullest extent. I claim that the people have sovereignty over the Territories, and have power to decide what their institutional leave them under the rightful exercise of authority to be reached in a very plain manner. I saw an amendment tions shall be. That is the Democratic doctrine, as I have protect that property. That, sir, is a plain proposition. My always understood it, and, under our constitution, the people friend from Mississippi (Mr. Davis) never has said that always understood it, and, under our constitution, the people of the Territories acquire that right whenever the United they shall become States of the Union, and they have no such right before. The difference, then, between the Senator from Illinois and myself is the point at which the people do possess and may assert this right. It is not the inhabitants of the Territory, but the people as a political body, the people organized, who have the right; and, exercising sove-reignty over the Territory, they may establish a fundamental constitution by which he can protect it. That is the proposieignty over the Territory, they may establish a fundamental

aw for all time to come. Then again the Senator states what, during the last Presiential canvass, was his position in relation to the doctrine of If non-intervention means that the Government shall refuse rotection to property, then, sir, whatever section has its property excluded from this intervention by the Government has a right, from that day forth, to withhold all further support. What claim, sir, has the Government to the assistance and

support of the citizens if it refuses them that protection? And what are all the great principles of our constitution i they are transferred to a Government without power to use slavery, although you may put this power of trover in that States have transferred their whole authority over the property belonging to them in the Territories of the United States. is stopped by such a principle as is here declared by the Senator from Illinois from exercising that authority, I would ask what is the value of our trust? What the power of our agent It stands at the mercy of every troop of men who be so. This idea that the people in a Territory can legislate may find themselves conglomerated in any Territory of the United States, unable to discharge the trust which has been inferred upon it, or unwilling, as the case may be, to render hat justice to one part of the owners of the public domain.

Mr. DOUGLAS. The Senator from Mississippi puts a question to me as to what number of people there must be in a Ter-ritory before this right to govern themselves accross. Without

etermining the precise number, I will assume that the right ought to accrue to the people at the moment they have enough to constitute a government; and, sir, the bill assumes that there man in this Senate, that when that amendment was prepared re people enough there to require a government, and enough | it was made under the impression that it contained th to authorize the people to govern themselves. If, sir, there are words of the Clayton compromise bill. That was a mistake shough to require a government, and to authorize you to allow them to govern themselves, there are enough to govern themselves upon the subject of negroes as well as concerning other species of property and other descriptions of institu-tions. Your bill concedes that government is necessary. Your bill concedes that a representative Government is ne-cessary—a government founded upon principles of popular sovereignty, and the right of the people to enact their own laws; and for this reason you give them a legislature consti-tuted of two branches, like the legislatures of the different States and Territories of the Union; you confer upon them the right to legislate upon all rightful subjects of legislation, except negroes. Why except negroes? Why except African slavery? If the inhabitants are competent to govern hemselves upon all other subjects and in reference to all ther descriptions of property; if they are competent to regulate the laws in reference to master and servant, and parent and child, and commercial laws aff cting the rights and property of citizens, they are competent also to enact laws to govern themselves in regard to slavery and negroes. Why, when you concede the fact that they are entitled to any government at all, you concede the points that are contended for here. The distinction is made that the people of the Territory are to govern themselves in respect to the right in all kinds o property but African slaves. I want to know why this excep-Upon what principle is it made? What is the ne-

cessity for it? Is it not as important as any other right in property? Why, then, should it be excepted and reserved? And, sir, if you reserve it, to whom do you reserve it? To this Congress? No, sir; you deny it to the people and you

deny it to the Government here. Mr. WALKER. I wish to comprehend this amendment rightly, for the purpose of knowing how to regulate my own conduct. If I understand the object of the Senator from Missis-ippi, it is simply to give to the Legislatures of these Territories power to protect, not slave property alone, but every

species of property.

Mr. DAVIS, (in his seat.) Property of every kind.

Mr. WALKER. Well, sir, the bill as originally introduced provides that "the legislative power of said Territory shall extend to all rightful purposes of legislation consistent with the Constitution of the United States and the provisions of this act." I wish to inquire what can possibly be the necessity of the amendment of the Senator from Mississippi, when the bill expressly declares that the legislative power

States" included property in slaves. Bitt, sir, that is not agreed. On the contrary, I apprehead that a very large proportion of Senators present, if not a decided majority, are of opinion that slaves cannot be introduced and held as property in the propertion of Senators present, if not a decided majority, are of opinion that slaves cannot be introduced and held as property well be met streamed to the product has been designed to the constitution and aristing laws of the Linkon. The amendment of the Senator, therefore, is as it liable to miscontinuous, and it is a doubtful imaget as the original clause. Now, sit. I claim to the streamed to the constitution and aristing laws of the limbor. The amendment of the Senator, therefore, is as it liable to miscontinuous, and linked States; I can see no necessity for the samedment of the Senator from Mississippi and his motion was declared to be out and order to the state of the Senator from Mississippi, and his motion was declared to be out and order to the state of the Senator from Mississippi, and his motion was declared to be out and order to the Senator from Mississippi, and his motion was declared to be out and order to the Senator from Mississippi, and his motion was declared to be out and order to the Senator from Mississippi, and his motion was declared to be out and order to the Senator from Mississippi, and his motion was declared to be out and proposition. It is not the propertion of the better to show that the proposition. It will read a proposition of the constitution of the United States; and the proposition of the Senator from Mississippi, and his motion was declared to be out of order. Of column to now undertake to introduce of the Senator from Mississippi, and his motion was declared to be out and part to the Senator from Mississippi, and his motion was declared to be out and part to the Senator from Mississippi, and his motion was declared to be out and part to the Senator from Mississippi, and his motion was declared to be out and part to the Senator would come within the "rightful subjects of legislation." I cannot see that the bill, as it stands, will have the effect which the Senator from Mississippi apprehends; but if I may be allowed to take a different view fro ed to take a different view from him of the probable effect of his amendment, I think it will be regarded as the establish-ment of slavery. Look at the judicial decisions of the country. I have not the cases by me to refer to; but I may safely state that the general principle decided by the judiciary of the country in regard to property in slaves, is, that the existence of slavery in fact warrants the conclusion that it exists by law, unless a law prohibiting it can be shown. Now, suppose that the amendment of the Senator from Mississippi is carried: if any number of slaves should get into the Territory, slavery would exist there in fact; and it would, therefore, warrant the presumption, under the judicial decisions of the country, that it exists there by law, unless a law could be found prohibiting it. Well, suppose, under this amendment, the Territorial Legislature had passed laws regulating slavery; then, if the laws of Mexico were quoted to rebut the presumption that slavery existing in fact existed also by law, it would be answered here are laws passed by the Territorial Legislatures regulating the slaves that may be brought here which are incomlating the slaves that may be brought here, which are incon-sistent with the prohibitory law of California, and amount to an abrogation of it. In this way the Senator can get slavery an abrogation of it. In this way the Senator can get slavery tion that the Senator from Mississippi puts on the amendment be the true construction, and one which Senators desire to have carried out into its practical results, then my proposition should be respected.

I have made these remarks in order that the amendment I have offered to the amendment of the Senator from Missishappi may be clearly understood. I have nothing further nearly in its original form as possible; for, when you go into deviations and amendments upon this subject, there is no telling where it will stop. If there is to be any provision in regard to slavery, one way or the other, let it be done openly and candidly. If it be desirable to prohibit slavery, let the vote be taken openly for or against; and if, on the other hand, it is desirable to guard expressly the owners of slave property and to permit them to take it into the Territories, before the country fairly and openly. There is no necessity for finessing. Let us approach the subject directly, and either prohibit or admit slavery openly, or say nothing at all about it.

Mr. DAVIS, of Mississippi. I wish to say to my friend Mr. DAVIS, of Mississippi. I wish to say to my friend from Wisconsin that his proposition can be applied independently of the amendment, because it has no connexion with it. Congress may decide that slaves may be lawfully carried there; that every body has a right to carry slaves there; and if they should so decide, then I would ask the Senator would not require the very amendment which I have introduced. Would he leave the language in the bill which prevented the Territorial Legislature from passing any laws respecting slavery there, and yet give authority to take them into the Ter-

his discussion now, but will explain a few words which have been used on a former occasion. As well as I recollect they were the words which were introduced into the Clayton compromise, "that a Territory shall not legislate in respect to slavery;" and I recollect my friend from Maryland, now the Attorney General, replying that if the words should remain in that way, and an individual, with the view of trying the question, should carry his slave there under articles of contract—"articles of spprenticeship," if you please to call have allege them such—and the day after his arrival any one, I do not indicate any particular person, should seduce the slave and take charge of him, and the owner, or master, if you choose so to call him, should demand the possession of that slave, and should think proper to sue out a writ of trover, it would be replied immediately, here is an inhibition in the organic law against the courts taking cognizance of any case of that kind. say that that would be at once the case if the Territorial regislature were prohibited from passing any law in respect o African slavery. He might have a perfect right to carry his property there; but the courts in case of seduction could give him no remedy, for the reason that here is an express prohibition by Congress against the Territorial Legislature passing any law in respect to African slavery, by which he could have immediate process of law, under the conflicting provisions of the constitution of the United States and the laws of Mexico. And I think that was the point made by slavery is there, nor has he ever pretended by his amendment states surrender the sovereignty to them by consenting that | that it should go there per lege. I never understood him to say that it should go there, or that it is there. There is no law to carry it there, nor any law recognising it as being there; but the whole provision turns upon this, that if that species of property should go there the Territorial Government should give it such protection as would enable the owner tion. Sir, I might, under other circumstances, be tempted to reply to the argument offered by the Senator from Illinois, but will forbear now. I shall, however, express my views on on-intervention. I am sorry to hear him state it as he has. this whole compromise scheme at another time, and I promise the Senate, too, that I will not make a very long speech and shall not probably occupy their time more than forty or fifty minutes. But, sir, I would here ask, if there is no such law as that implied in the amendment offered by the Senator from Mississippi, what is the consequence? Sir, the obviou consequence is this, that if you have no such provision prohibiting Territorial legislation on the subject of African If this great Federal Government, to which the legislation, they never will use it. We have always contend aver transferred their whole authority over the product of the content of the c there; but that if any one should carry it there he should have a right to try the validity of his title to it in opposition to the Mexican laws, which have been held up as a peremptory pro-hibition of such property in these Territories. And it must for themselves independently of Congress, that they have a right to assume to themselves whatever powers of legislation they choose to assume, is most monstrous.

essary.

Mr. BUTLER. I will not. Mr. President, take part in

Mr. KING. I, too, sir, shall act upon the same principle and, when the proper time shall arrive, shall express my opinion on this subject. I rise just now with a view to do some justice to my friend from Louisians, who has offered to day an amendment to the bill as reported by the Committee laws respecting the establishment or the exclusion of African

to see whether it might not have another bearing.

But, sir, I think that the amendment offered by my friend from Mississippi (Mr. Davis) goes further than it is necessary to go to do all that is required to be effected by the compromise bill, and all that is required to be effected now; and that is, that it uses the very words "to prevent the Territorial Legislature from passing any law respecting either the establishment or the exclusion of African slavery;" and I have no fear that the powers belonging to the Territorial Legisla-ture will not be sufficient to enable them to pass all necessary municipal regulations for the protection this description. If, then, my friend from Miss's ippi will modify his amendment so as to leave it where it was originally intended to be placed by my friend from Louisians, think much objection will be removed.

Sir, I do not think there is a solitary gentleman on the othe side, belonging to a particular party, th it would be in favor of giving to these Territorial Legislatures this full power to pass aws either for the prohibition or the introduction of slavery. They would be afraid of its introduction; and the probability is, that their fears would not be entirely groundless. I, sir, am opposed to giving to the Territorial Legislatures any power either to prohibit or to introduce it. I believe that the power does not exist on the part of Congress, and in that respect I differ with the Senator from Illinois in toto. Sir, his argument is a free-soil speech; it is the Wilmot proviso, so far as the argument goes, as to giving to the Congress of the United States the power of regulating every description of property which the citizens of the country possess who choose to emi-grate there. The Senstor went vastly beyond what I have heard before, because it was then confined to slavery. But he would prohibit all property, because, forsooth, the Government of the United States prevented traders from going into the Indian country and selling certain articles to these unfor-

tunate beings.

Sir, the first Territorial Governments which we established were simply for the protection of persons and property, and consisted of a governor and council. And are Senators prepared to say that this governor and his council—if Govern-ments should be ordained for these Territories—should have

in favor of three months ago, and is what I am in favor of still.

Mr. DOUGLAS. I stated that that has been a doctrine unan-Mr. DOUGLAS. I stated that that has been a doctrine unanimously entertained, so far as I have understoodit—that Territotorial bills were to be passed silent on the subject of slavery, and that no provision was to be made upon the subject. I understand that that has been the unanimous doctrine; that is what I now advocate; that is what I made an argument in favor of I did not propose to say in the bill that the Territorial Legislature should have the power to legislate on the subject of slavery, or that Congress should have power to prohibit or establish it in the Territorial I proposed to strike out that prohibition of the Territorial Legislature on the subject, and, that being done, it would read that Territorial legislation

should extend to all rightful subjects of legislation within their boundaries. I proposed to make it an open question, so that the people themselves could do with it as they pleased.

Now, sir, let me compare notes with the Senator, and see who is in favor of the Wilmot proviso and free-soil doctrine on this point. He desires a prohibition on the part of Congress that the Territorial Legislatures shall not legislate in report to slavery. Why sir the leave of Maxico prohibited spect to slavery. Why, sir, the laws of Mexico prohibited slavery in those Territories when we acquired them from that slavery in those Territories when we acquired them from that country, and according to the law of nations the laws of Mexico are still in force. And what is it that the Senator proposes? Why, it is to continue those laws in force, and to proposes? Why, it is to continue those laws in force, and to prevent the people themselves from repealing them. And that is the very doctrine of the Senator from Wisconsin, which he wants to continue and retain in the bill. That was the reason it was voted into the bill by the committee of thirteen, the Senator from Vermont giving the casting vote to put it in, because it was a perperuation of the prohibition of slavery forever. Sh, I wish to strike it out, because I do not wish to perretuate any institution against the will of the peo-ple. I wish to leave them free to regulate their own institutions in their own way, without compelling them to establish an institution there, on the one hand, if they do not wish, nor preventing them, on the other, from establishing it if they do wish it. Sir, I only made those remarks which I thought were courteous. I had made a speech in favor of the doctrines I have always held, and I did not expect to see the Senator from Alabama show that irritability of temper, and to hear him use epithets, instead of attempting to reply to an argument which he knew to be frankly and candidly made. I made no uncourteous semark. Now, sir, I admit that I would rather take the doctrine as it is to be found in the bill of the Senator from Kentucky than one which would stultify the whole Democratic party. It is now clear that the object is to stultify the whole Democratic party of 1848. It is now intended to rebuke the doctrine we advocated at that time. The Senator from Mississippi said he was opposed to it; the Senator from Alabama says he, too, was against that doctrine then; the doctrines of the Senator from Michgan are to be ritory? This would be a contradiction. Now, if Congress should decide that the people shall not take slavery there, then I grant you that police laws on this subject would not be neabandoned, new doctrines are to raised, and the supporters of the doctrines enunciated in 1848 are to be moothed down and required to vote for a measure which is intended to stultify and disgrare the whole Democratic party That, sir, is the question which we are to meet; and, if we must meet it, let us meet it openly and like men. The Senator from Kentucky was manly enough to say that he was opposed to this neasure; he was manly enough to rise above all political rivalries, and to say that it was wrong to put the question on such a basis. We can stand where we sted in 1848, and where we have ever stood upon this question; but, sir, when

we are required to retrace our steps and enounce what we have alleged to be our principles, that becomes quite a differ-Mr. WEBSTER. Mr. President, do not think that there is any thing in this question that uns so far into the interests or feelings of party, past, preent, or to come, as little moment, and I doubt whether it will have any degree of influence upon the just construction of he bill. Sir, if I understand the object of gentlemen who lave taken part in this discussion, it can be very easily attained by amendment form of amendment. I have seen on the surface of this question (and I suppose that every thing belonging to it is on the surface) my constituents to approve or condemn my course. This ment from deciding upon the question of the permanent establishment, or the permanent exclusion of slavery in the Territorial Governments for the Northwestern confederacy to institute Governments for the Northwestern lishment, or the permarent exclusion of slavery in the Territory, as there was not a particle of power in the articles is proposed to strike of confederation upon the subject, and which, in the opinion of be reached in a very plain manner. I saw an amendment the other day in the hands of the honorable member from Indiana (Mr. WHITCOMB) which I think is calculated to ich that object. It is the same that has been indicated by the honorable member from Alabama. As the bill now reads it provides that the Territorial Legislature shall the act. have no authority to pass any law respecting African slavery. The argument is, that by possibility it may become necessary to pass laws respecting slavery, if slavery shall ever exist there. Now, I suppose that the amendment proper to be in-troduced for the purpose which has been signified by the gentlemen who have spoken, would be to strike out those words and to say that the Territorial Legislature shall have no authority to pass any law for establishing or excluding slavery in the Territory. It appears to me that this is the upshot of the whole matter. That is very proper, because I take it that the meaning of the whole is that this question shall be left to the people of the State to decide after it becomes a sovereignty on into the Union on the same footing with the riginal States. It may then be a question for the people themselves to decide, because I take it to be clear that it is municipal question. It is a question for the decision of the in their State sovereignty, and there may be a propriety, there certainly is no impropriety, in excluding exercise of any power in the Territorial Government for the stablishment or exclusion of slavery. I must say, sir, that I look upon the whole matter as of not the slightest practica utility in the present case. My judgment is that no provision of this sort is likely to have any effect whatever upon the actual state of things which will arise in New Mexico. the proposition is apparent. If the amendment be put in the shape which I have indicated it will be unobjectionable.

Mr. DAVIS, of Mississippi. It is in that shape now. Mr. WEBSTER. It has been advanced that these people while a Territory have a right to do any thing and every thing that belongs to the rights of man. I cannot conceive that they have. I understand something I hope about the rights of man, as they exist before government and without vernment, and before there is a social state and before there is a political state. But when we speak of the rights of perthe rights of people who are in a social state, who are in a political state, who are under the dominion and power of a government—when we speak of their rights, I suppose we must mean their rights as they exist as social rights, and their political rights more especially as they exist in the state of things existing at the time. I shall not now go into the That was supposed to be the object at the time it general reasons of the subject, nor shall I meet the argument slavery. That was supposed to be the object at the time it general reasons of the subject, nor shall I meet the argument was offered by the honorable Senator from Louisiana, in order or attempt to meet the argument of the honorable member from Michigan addressed to us some time ago.

We have always gone upon the ground that these Territo rial Governments were in a state of pupilage, under the pro-tection or patronage of the General Government. The Terri torial Legislature has a constitution prescribed by Congress The have no power not given by that Congress. They must act within the limits of the constitution granted them by Congress or else their acts become void. The people under the Territorial Government are not a sovereignty; they do not constitute a sovereignty, and do not possess any of the rights incident to sovereignty. They are, if you so please to denominate it, in a state of inchoate government and sovereignty If we well consider this question upon the ground of our practice during the last half century, I think we will find one way of disposing of it. It is our duty to provide for the people of the Territory a government to keep the peace, to secure their property; to assign to them a subordinate legislative authority; to assign to them a subordinate judicial authority; to see that the protection of their persons and the security of their property are all regularly provided for: and to maintain them in that state until they grow into sufficient importance in point of population to be admitted into the Union as a State upon the same footing with the original States. It seems to me that that is all our duty. I shall most readly concur in any thing which tends to the performance of that duty. But I cannot go into any general discussion about the rights of the people while under the Territorial Government, and do more than they are permitted to do by that constitution which

creates a government over them.

Mr. CASS. Mr. President, a letter of mine, which seem to have become somewhat historical, has been so often re ferred to in this discu-sion, and so many constructions have been put upon it, that I feel called upon to read a portion of t, that it may speak for itself. Like the leaves of the if it has any meaning, it would appear it is so dark that every man may read it in his own way, or, in fact, in no way that the Senate has already been confounded with a number of explanations of that letter. Sir, I repeat again what I said emphatically upon a former occasion, that, if any man

to the true interpretation of this letter? Now that the excitement of an election has passed away, and we can all look coolly at things as they are, is there any man here or elsewhere who can put any other construction upon this letter than that which its words plainly import, that in the "mean time," during the pendency of the Territorial Governments, "they should be allowed to manage their own concerns in their own way."

cupied my full share of the attention of the Senate in the explanation of my views respecting it. The distinguished Sena-tor from Massachusetts (Mr. Websten) says we have sovereignty over the Territories. I am not to be led from my path by that word sovereignty, which we have so often heard invoked here, as though it were a kind of open sesame, which opened all power to the General Government. If you can find that word in the constitution, which you cannot, and that it confers any authority upon Congress, so be it; there is an end of the question, and we may lawfully exercise what is thus granted. But if the word is not there, what right have you to introduce it here as the foundation of Congressional power? My doctrine is this—I have already ex-plained it at length, and I shall now but briefly refer to it, as the subject is in my way-my doctrine, I say, is this: that there i no provision in the constitution providing for the establishment of Territorial Governments, and, without going into the matter at all, I would only remark, that the various clauses and considerations, in the constitution and out of the constitu-tion, which have been adverted to in support of the power think a classification of them makes thirteen-and the reasons, quite as various, urged to establish them, are enough, were there no other reasons, to call in question the right in Congress to regulate this subject. A few plain words would have settled the matter for ever, had the convention intended to grant the power. They are not there, nor any thing like them, and we are driven to forced interpretation and to remote analogies for a great political power, instead of being able to put a finger upon the grant itself. My position is, that, tor certain reasons, which I will not recapitulate, as I have already explained them at length, the necessity of providing Governments for Territories was neither foreseen nor provided for, such Governments having already been instituted by the old Congress in all the Territory belonging to the United States, and new acquisitions not being within the contemplation of the statesmen of that period. My doctrine further is, that it is the moral duty of any country making acquisitions, to take care that they are supplied with governments agreeably to the nature of their institutions. It is one of the duties of sovereignty, if you so please—for that is using the word to a legitimate purpose—defining, as it does certain relations, and not being made to convey power to any department of a Government owing its existence to the popular will, and deriving its authority from a written constitution, which withholds all that is not granted. The American peo ple are the true sovereigns of this country, and entitled as such to exercise all power which fairly belongs to that relation. But no department of their Government can have such powers, under this attribute of sovereignty, unless it is seems to be supposed by the honorable member from Alabama. I think that the amendment moved in this case by the honorable member from Mississippi (M. Davis) is of very providing Governments for the Territories, but as the people have not granted that authority, when the case arises and Congress acts upon it, they yield to a pressing necessity, and must throw themselves upon their constituents for justifica-tion. If they believe there is a just necessity for action, they will be supported; if not, they must fall. In such a case I should not hesitate thus to act, and would cheerfully leave

> of Louisiana, while he saw no warrant in the constitution for Now, sir, as your power is founded upon the necessity of the case, it should be carried no further than that necessity requires. It is government which is necessary for the Territo-ries, not Congressional legislation over their internal concerns; and we should therefore stop at the former, and leave the latter to the people. To show that there is not the slightest ne cessity for Congress to act the part of a Territorial Legisla cessity for Congress to act the part of a Territorial Legisla ture, it is enough to say they have never done so. The Ter ritories have always legislated for themselves, and the few cases of interference with their internal concerns by Congress, to be found upon the statute books, were useless and unnecessary exceptions, which but the more forcibly establish the general principle. The Territories have always been found competent to legislate for themselves, and life, liberty, and property have been as well protected there as elsewhere

> where the necessity ceases, your action should cease. My views on another point being misunderstood, I will brief-ly refer to them. My doctrine was, and is, that the people of e Territories have a right to legislate for themselves. speaking formerly of Territories organized into political comaunities by the action of Congress, and the process by which deduced this attribute of self-government I have just ex-plained. But, sir, where the United States refuse or neglect to institute governments for new acquisitions, I hold it to be the right of the people to provide governments for themselves. I do not intend to argue that point with any man. He who does not feel and acknowledge that clear right of self-preservation as inherent in every community, when neglected by its sovereign, if it have one, entertains views so different from mine on the great question of human rights, that we have no common ground on which to argue. So far I agree fully with the doctrine advanced by the President, in his message, that communities thus situated have the right to provide for their own government, though I dissent totally from the recommen dation to leave them in that condition.

> The honorable Senator from Mississippi (Mr. Davis) says we are sovereign, and thence seeks to deduce powers from that relation. And, sir, we are sovereign—that is, we the people. But if there are rights of sovereignty, there are also duties o sovereignty. That relation is not all on one side. These duties we ought to fulfil, and, if we do not, the people must fulfil them for themselves. My honorable friend whether all men have a right to form a Government, Mr. President, in the application of great principles you must not ex-pect to find a definite boundary, a wall, in fact, to which a man may go, and where he must stop. Moral questions run into each other, and, like day and night, it is often difficult to tell where one begins and the other ends. It is very clear that one man cannot establish a Government, politically so called, though he may govern himself. It is equally clear that one million of men may do so. Where the line shall be drawn is a question appealing to the circumstances of the case, and to the common sense of mankind. But he who undertakes to measure human rights by the square and the compass will soon find he is dealing with a subject beyond his reach, and which has eluded many a mightier grasp than his own. I repeat, this is a question of common sense, and I suppose the descendants of the crew of the Bounty, who occupy Pitcairn's Island, and amount, I think, to about one hundred and thirty, have just as much right, in the eyes of God and man, to provide for their own government, as have the two hundred millions who form the Chinese Empire, now our neighbor on the Pacific.

> Mr. DAVIS, of Mississippi. I will state my position if the honorable Senator from Michigan will allow me.

Mr. CASS. Certainly; with great pleasure. Mr. DAVIS. My position was not that a number of per sons, being without government, could not take such measures as their condition required to govern themselves. It was not, for example, that a vessel being wrecked upon a desert coast, its crew could not adopt, among themselves, certain rules which should be binding upon each other. But, whenever the country to which they belonged found that crew and extended its authority over them, their legislation must be sub-ordinate to its sovereignty, and their former fundamental law should be null and void. Now, in this case, suppose that five men, or five hundred, sdopted a government

right to establish Governments by the inhabitants themselves, who are left without any, is a temporary one, and that it ceases as soon as the superior Government fulfils its duty by providing for one of the first wants of society.

Now, with respect to the amendments. I shall vote against them both, and then I shall vote in favor of striking out the restriction in the bill upon the power of the Territorial Governments. I shall do so upon this ground. I was opposed, as the honorable Senator from Kentucky has declared he was, to the insertion of this rochibition by the committee. allowed to manage their own concerns in their own way."

Does not slavery come within this category? Is it not a domestic concern? Is not that the doctrine of the South, of common sense, indeed? No Territorial Government was ever established which had not power to regulate the domestic relations of husband and wife, of parent and child, and of guardian and ward; and if the inhabitants are competent to manage these great interests, and indeed the interests belonging to all the departments of society, including the issues of life and death, are they not competent to manage the relation of master and servant, involving the condition of slavery?

Mr. President, there has been a good deal said to-day upon the subject of the rights of the Territories. I am not going into the discussion of that subject at all. I have already occupied my full share of the attention of the Senate in the exdo one or the other; for neither can be exercised but by virtue of full jurisdiction. The power of Congress over the public territory, which, as Judge Story has it, "is clearly exclusive and universal, and is subject to no control"—if this power can extend beyond the necessity, it is without limitation

and law.

It is contended by many Southern gentlemen that the right to take slaves to the Territories is a right secured by the constitution, and which, of course, no legislation can restrain.

Opinions differ upon this subject. But there is one mode of settling it amicably and satisfactorily to which we can all egree, and that is, by referring it to the Supreme Court, the great umpire in constitutional questions, and en umpire in which the whole country has confidence. If, however, this doctrine is the true one, slavery can be carried to these Territories, independent of our action, and the Legislatures will have the right to protect it. The bill grants to these Legislatures jurisdiction over all rightful objects of legislation, subject to the provisions of the constitution. By omitting both amendments and the prohibition, the subject is fully open to the claims of the South, if supported by the constitution, and slavery is a rightful subject of legislation, and may be protected, but not excluded by the Territorial Legislature.

If, as the honorable Senator from Louisiana (Mr. Downs) says, the people of the Territories are opposed to slavery, you cannot make them legislate in favor of it, and the effort, if made, would be unsuccessful. But if slavery may go to the Territories by virtue of the constitution, what right have you to prohibit the Territorial Legislatures from expressly providing for its admission by positive legislation, and from passing any laws they may think proper to favor its in-

One more remark, sir, in relation to this subject. The distinguished Senator from South Carolina (Mr. BUTLER) said, if I understood him correctly, that he wished the amendment of the Senator from Mississippi, because he desired to have this right of protection repeated in the law, lest the people might disregard the constitution. Now, sir, this is a work of supererogation, I trust, we shall never do. is no need, nor is it any part of our duty to re-enact the constitution. That great instrument would gain no force from our legislation. If that were disregarded, surely we could expect little benefit from our interference.

Now, sir, the distinguished Senator from Massachusetts

will permit me to ask him why a Territory should not be allowed to legislate for itself over all its concerns?

Mr. WEBSTER. Because the law does not give then

Mr. CASS. My question is, why it should not be allowed he control over this subject as well as any other?

Mr. WEBSTER. I will tell the gentleman. Because it s not an established permanent Government. It has too much connexion, and is too much under the patronage of this Government, and especially on the subject of slavery. I do not wish to see the slavery question agitated in the Territories while the Governor is appointed by this Government, while the Judges are all appointed by this Government, while they have not an independent character like the States of this Union.

That is my answer.

Now, if the honorable gentleman will allow me one word, will tell him the whole issue, the whole difference between him and myself. He read, I think, an extract from the Nicholson letter, in which he said that the Government was Mr. Madison, justified their action; and it is the inevitable con- in duty bound to protect the Territories, leaving to the people sequence, in the opinion Judge Marshall, where he deduces the of the Territories all that concerns their domestic interests right, or rather the duty, of Government from the power of acquisition. It was a similar necessity, growing out of the circumstances of the country, which induced Mr. Jefferson to assent to the completion of the arrangements for the acquisition

e constitution.

Mr. CASS. I do not desire to speak so much like a lawyer as like an American Senator, who believes the powers of this Government are to be found in the constitution, and who believes also in the rights of man. There is many a great question not to be found in the law reports. The honorable Secator frem Massachusetts is willing to give to the Territorial Legislature jurisdiction over all the concerns of life, over all domestic relations but one, over the whole system of policy which is to mark the future character of the community, one he would except, because the Territories are under the control of the General Government. Let me ask him if he supposes this Government, be it administered by whom it may, is going to interpose, if it could, in the subject of slavery

Mr. WEBSTER. The gentleman begs the question. I will tell the gentleman that we deny many powers. There were many Territories, in our history, where they were obliged to send up their laws for revision till they became States. Many were obliged to send up certain laws for revision. The gentleman begs the question when he says I allow the Territory authority over every subject but one. I allow no authority but what is given by an act of Congress, under which they are formed.

Mr. CASS. The gentleman will allow me to say, and I have a right to say it, as I have lived under a Territorial Government a large portion of my life, that he is in error when he supposes that the restriction of the powers of these Le-gislatures, as to questions of a strictly domestic character, is a common feature of Congressional legislation. I recollect but one provision, which comes clearly within this rule, and this was a prohibition against banking, introduced when there was a mania upon that subject, and when in fact the question was in some measure a general one, as the money of these banks went every where. I will not speak positively, but I recollect no other case at this time-always, of course, excepting the proviso now known as the Wilmot pro-viso. I am speaking now not of a provision requiring the Territorial laws to be sent here for consideration, but of a previous restriction prohibiting the Territorial Legislatures from acting upon the subject. The honorable gentleman is also in error when he supposes there is any provision requiring the Territorial laws to be submitted to Congress, and to be approved by that body before going into operation.

Mr. WEBSTER. I did not say that. Mr. CASS. I se understood the gentleman. Those laws are to be submitted to Congress, not for confirmation, but for consideration, with the view, I suppose, to repeal or modify such as might appear unconstitutional or improper. But I can recall only one case where this power has been exercised, and that is in relation to banking. I again ask why this case o slavery should be excepted from the jurisdiction of the Terri-torial Legis'atures? The Senator from Massachusetts says we have excepted many other cases. But I repeat that he under a misapprehension upon that subject. I consider the people of a Territory just as competent to settle this question as the people of a State; and I believe a man knows just as much when he goes to a Territory as he did before he went there. And I believe, further, that we have no Territory where the American settlers will not exercise a preponderating influence over all public affairs. The inhabitants will always have a Legislature which will reflect their wishes; and, if they desire slavery, they will have it, and if they do not, they will exclude it, unless prevented by the constitution. The will exclude it, unless prevented by the constitution. simple question is, why you take from them one of their natural rights-the right of regulating one of their domestic relations? The gentleman told us just now that he did not desire to see the question of slavery agitated in the Territories. Sir, that is just where I desire to see it agitated, if agitated it must be, as it will do far less injury there than here. Why, then, I repeat, do you make a distinction between this right and any other ?

Mr. WEBSTER. I will suggest to the honorable member that we do not allow them to appoint their own governor or their own judges.

Mr. CASS. I am willing to allow them to choose their own governors. But that is not a question involving the do-mestic relations; it is a political question. I am well aware, as I stated on a former occasion, that it is difficult to draw an exact line between all the provisions which belong fairly to selves, does that cancify an aggression upon the right of the sovereign upon whose land they trespass?

Mr. CASS. I am happy to find that the honorable Senator and myself agree as to the impropriety of measuring huses that the power to regulate the condition of master and myself agree as to the impropriety of measuring huses that the power to regulate the condition of master and myself agree as to the impropriety of measuring huses that the power to regulate the condition of master and myself agree as to the impropriety of measuring huses that the power to regulate the condition of master and the provisions which belong the provisions which belong the provisions which belong the power to organize governments—such as the appointment of officers, the qualification of voters, and the like, and the right of the power to organize governments—such as the appointment of officers, the qualification of voters, and the like, and the right of officers, the qualification of voters, and the like, and the power to regulate the condition of master and the power to organize governments—such as the appointment of officers, the qualification of voters, and the like, and the power to regulate the condition of master and the power to organize governments—such as the appointment of officers, the qualification of voters and the like and the power to organize governments—such as the provisions which is the power to organize governments—such as the provisions where the power to organize governments—such as the provisions where the power to organize governments—such as the provisions where the power to organize governments—such as the provisions where the power to organize governments—such as the provisions where the power to organize governments—such as the provisions where the power to organize governments—such as the provisions where the power to organize governments—such as the power to organize governments—